IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Second Appeal No.558 of 2004.

Rajasthan State Road Transport Corporation,Jaipur& anr.
Versus
The Oriental Insurance Company Ltd., and Others.

Date of Order ::: 29/11/2006

Hon'ble Mr. Narendra Kumar Jain, J.

None present for appellants.
Mr. Vinod Tyagi, Counsel for respondents

By the Court :

Heard learned counsel for the respondents.

Learned counsel for the respondents submits that the similar matter i.e. Civil Second Appeal No.555/2004 has already been dismissed by this Court on 13.11.2006 being barred by limitation as well as on merits, therefore, the present second appeal may also be dismissed.

I have heard learned counsel for the respondents on the application under Section 5 of the

Limitation Act as well as on merits of the appeal also.

The plaintiff-respondents filed a suit for recovery of a sum of Rs.32,585/- in the Lower Court, which was decreed. The judgment and decree passed by the Lower Court has been affirmed by the first appellate Court also. After considering the submissions of the learned counsel for the respondents as well as the finding of both the Courts below I find that the controversial issues involved in the present case are relating to question of fact and there is concurrent finding of fact by both the Courts below, which cannot be interfered with by this Court in second appeal under Section 100 of the C.P.C.

The reasons given in the application under Section 5 of the Limitation Act are also not satisfactory so as to condone the delay in filing the second appeal. Hence, the application under Section 5 of the Limitation Act is dismissed.

No substantial question of law is involved in this second appeal.

Consequently, the second appeal is dismissed being barred by limitation as well as on merits also.

(Narendra Kumar Jain) J.